

Patricia M. French
Senior Attorney



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July 14, 2005

BY OVERNIGHT DELIVERY AND E-FILE

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Bay State Gas Company, D.T.E. 05-27

Dear Ms. Cottrell:

Enclosed for filing, on behalf of Bay State Gas Company ("Bay State"), please find Bay State's responses to the following Record Requests:

From the Attorney General:

RR-AG-24 RR-AG-28 RR-AG-29 RR-AG-31

From the Department:

RR-DTE-2 RR-DTE-17 RR-DTE-27 RR-DTE-28 RR-DTE-35

RR-DTE-36 RR-DTE-37 RR-DTE-41 RR-DTE-42 RR-DTE-43

From the MOC:

RR-MOC-01

Please do not hesitate to telephone me with any questions whatsoever.

Very truly yours,

Patricia M. French

cc: Per Ground Rules Memorandum issued June 13, 2005:

Paul E. Osborne, Assistant Director – Rates and Rev. Requirements Div. (1 copy)

A. John Sullivan, Rates and Rev. Requirements Div. (4 copies)

Andreas Thanos, Assistant Director, Gas Division (1 copy)

Alexander Cochis, Assistant Attorney General (4 copies)

Service List (1 electronic copy)

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO
RECORD REQUESTS FROM THE ATTORNEY GENERAL
D.T.E. 05-27

Date: July 13, 2005

Responsible: Joseph Ferro, Manager, Regulatory Policy

RR-AG-24: Provide copies of all other contracts between the company and the special-contract customers. This response should include, but is not limited to, all contracts related to capital additions, expansions, and system upgrades or the provision of any other service to customers. Please provide the currently effective contracts, contracts that may have terminated, and all amendments and original contracts.

Response: In addition to the material provided in AG-22-48, please see Attachment RR-AG-24(a) and Attachment RR-AG-24(b) for copies of executed special-contracts executed between the Company and Foxboro Realty Associates, LLC and MCI-Bridgewater (Commonwealth of Massachusetts), respectively.

These contracts do not contain special rates as the customers are receiving service under the Company's tariff rates.



Via Facsimile

September 27, 2001

Elise N. Zolie, Esq.
Goodwin Proctor
Exchange Place
Boston, MA 02109

Re: Foxborough Contract: CMGI Field, 60 Washington Street, Foxboro, MA

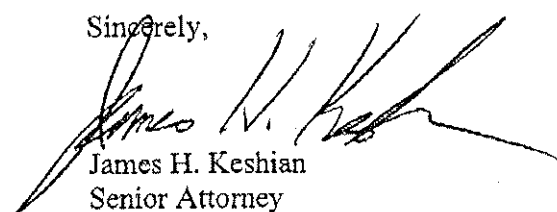
Dear Ms. Zolie:

Enclosed is the above-referenced agreement executed by an authorized representative of Bay State Gas.

Please note the following: On the signature page, the Customer should be identified. Also, the name and title of the Customer's authorized representative should be identified. In addition, please insert the appropriate date on the Certificate of Authority.

Finally, I anticipate we will be able to exchange certificates of insurance tomorrow.

Sincerely,



James H. Keshian
Senior Attorney

JHK/dsm
Enclosure

CONTRACT FOR INSTALLATION OF GAS SERVICE OR MAIN OR RELOCATION OF METER

This Agreement is made and entered into between FRAL Corp. and Foxboro Realty Associates LLC, CMGI Field, 60 Washington Street, Foxboro, Massachusetts (the "Customer" or a "Party") and Bay State Gas Company (the "Company" or a "Party"; collectively, the "Parties"). In consideration of the mutual covenants and conditions herein contained, the Company and Customer agree to the following terms and conditions:

SUMMARY & DESCRIPTION OF WORK

Bay State Gas Company (A NiSource Company)

Agreement No.	_____
Customer Gas A/C	_____
Initial Contribution	\$00
Agreement Date	as of August 9, 2001
Minimum Annual Volume (MCF)	40,800
Minimum Annual Non-Gas Payment	\$60,000
Deposit	\$0.00

☒ Customer requests the extension of the Company's gas-distribution system, installation of four (4) gas service(s) and meters from the outside of the foundation wall to the nearest point on the Company's gas main at CMGI Field, 60 Washington Street, Foxboro, Massachusetts.

☐ Customer requests the Company to upgrade the existing gas service and/or gas main to accommodate additional gas equipment at _____
(No. and Street) (City or Town)

☐ Customer requests the relocation of the Company's gas meter _____
(describe location).

A. The Company is ready and willing to perform the Work (hereinafter defined), pursuant to the terms hereof.

B. The Customer commits to using/purchasing gas and/or transportation service at its property for a minimum term sufficient to reimburse the Company for performing the Work (hereinafter defined) pursuant to the terms hereof. The Customer acknowledges that the Company shall complete a major construction project summarized above and more particularly defined in Exhibit A ("Work"), in reliance upon Customer's request for service. In consideration and recognition thereof and the resources and funds committed by Company to make such service available, Customer agrees to make minimum annual payments to the Company, as provided herein, during the term of this Agreement. The Customer property where Work is to be performed is collectively referred to as the "Facility".

Article 1 - Responsibilities of the Parties

Section 1.0 - Customer Responsibilities

1.1. The Customer is responsible for backfilling the foundation to rough final grade prior to service installation. The Customer acknowledges that the Work may be delayed or cancelled by the Company, or this Agreement renegotiated subject to the approval of the Parties which shall not be unreasonably withheld, due to events beyond the Company's reasonable control (e.g., adverse weather conditions, soil or digging conditions, or denial or delay in issuance of necessary permits or imposition of burdensome conditions imposed by any permit granting authority, presence of ledge, wetlands or Hazardous Materials (see Article 8) or labor disputes), as provided herein.

1.2. Customer agrees to begin using/purchasing the Company's gas and/or transportation service on an interim basis within ninety (90) days of completion of the Work. If the Customer does not begin to do so within such ninety (90) day period, Customer shall reimburse the Company for the cost of the Work (including labor, materials, applicable taxes, overhead, etc.) (such amounts collectively, the "Cost"), as provided herein. The Cost of the Work may vary from the estimate set forth in Paragraph 3.1 to the extent provided herein (i.e., in Paragraph 1.24). Notwithstanding the foregoing, the period for measuring the minimum payments required under Paragraph 1.3 (hereinafter defined) shall commence on April 1, 2002 (the "Payment Commencement Date").

1.3. Commencing on the Payment Commencement Date, Customer agrees to purchase a minimum volume of gas of 40,800 thousand cubic feet (from the Company, or from others but with delivery by the Company) per annum during each consecutive twelve (12) month period ("Contract Year") following the Commencement Payment Date. Commencing on the Payment Commencement Date, the minimum annual transportation revenues paid by the Customer to the Company shall be at least \$60,000 during each of ten (10) Contract Years ("Minimum Annual Transportation Revenue Requirement" - "MATRR"). (Transportation revenues are represented on the monthly bill as the sum of Customer Charges and Distribution Charges, or if the Customer becomes a transportation customer, then transportation revenues will be Customer Charge plus Transportation Charge; the MATRR excludes any payments related to late payment charges, imbalance charges, cashout charges, gas commodity or any other gas supply charges, and any

payments prior to the Payment Commencement Date.) If transportation revenues received by the Company from Customer in any Contract Year are less than the MATRR (i.e., \$60,000), the Company shall charge, and the Customer agrees to pay, a Minimum Annual Adjustment Fee equal to the difference between the MATRR and the actual transportation revenue received during such Contract Year. No monetary refund or revenue credit will be due Customer for any Contract Year in which it exceeds the MATRR. Minimum volumes applicable to any period of less than twelve months shall be determined by proration of the minimum annual volume and associated transportation revenues. Payments made consistent with this Agreement are not payments for gas and/or transportation service, but are in consideration of the Company's performance of the Work. Except as provided in Paragraph 1.4, the Customer acknowledges that the MATRR payable over the term of this Agreement (MATRR x 10) is due and payable to the Company even if Customer transports no gas during the term of this Agreement to the extent provided herein.

1.4. Notwithstanding the foregoing, and following the Payment Commencement Date, Customer may terminate this Agreement upon two (2) months' prior written notice to the Company, with any such termination being effective at the end of the second month, following the month in which such notice of termination is delivered (the "Effective Early Termination Date"). In the event of any such early termination of this Agreement, the Customer shall pay to the Company on the Effective Early Termination Date the buyout amount set forth in Exhibit B corresponding to the Contract Year in which the Effective Early Termination Date occurs. The Customer may only exercise the early termination option set forth above if it is not in Material Default under this Agreement (as provided in Article 5 of this Agreement) and provided that it timely pays the Company any other amounts due under this Agreement through the Effective Early Termination Date. However, such payment by Customer shall not abrogate any obligation of the Customer under this Agreement which is expressly identified as surviving the termination of this Agreement.

1.5. The Customer, at its own expense, (i) has provided and/or shall provide all reasonably available information describing the physical characteristics of the Facility, including surveys, site evaluations, legal and other required descriptions, information about existing conditions, sub-surface and environmental studies, reports, investigations and the like which it may have now or in the future; (ii) has marked and identified and/or shall mark and identify for the Company or cause to be marked and identified for the Company locations of all underground infrastructure (e.g., sprinkler system, septic system, underground electric, etc.) at or about the Facility; and (iii) has provided and/or shall provide all reasonably available site plan reviews and permits of the sort customarily obtained by the Customer for project development of this nature and required for the Company to carry out its Work at the Facility, except for those permits, authorizations or approvals customarily obtained by the Company for the Work, which the Company has obtained and/or shall obtain.

Customer warrants and represents that, to its knowledge, there are no conditions on or about the Facility (including, but not limited to, the presence of Hazardous Materials), which would make the Work unreasonably dangerous or would substantially alter the estimated cost of the Work

described in Paragraph 3.1 for the Company and/or its employees or agents. If the Customer becomes aware of any such conditions, it shall immediately notify the Company by facsimile, telephone or e-mail and follow-up such notification in writing within 24 hours, where applicable. The Parties agree that upon the occurrence and/or discovery of any such unforeseen conditions, the Customer will be responsible for and pay to the Company all additional costs/fees related to or caused by such conditions.

1.6. In the Company's performance of the Work, Customer shall allow representatives of the Company reasonable right of entry to those portions of Customer's Facility where gas-delivery equipment, including without limitation all pipes, services, mains, meters and fittings up to the Customer's meter fit, owned by the Company are to be located or where the Work is to be performed.

1.7. The Customer assumes full responsibility for the proper use of gas transported by the Company, and for the condition, suitability and safety of any and all Equipment (hereinafter defined in Section 2.1) at Customer's Facility that is owned or controlled by Customer and not owned by the Company consistent with Article 8 of this Agreement.

Section 1.20 – Company Responsibilities

1.21 The Work to be performed by the Company will meet applicable standards, laws and codes.

1.22 The Company has begun the Work, and shall continue to complete the Work in a commercially reasonable manner. The Company is not responsible for any Customer losses caused by Work delays or cancellation attributable to any refusals or delays by any governmental authority in issuing any necessary permits or approval to the extent provided herein.

1.23 The Company will refill any excavation with earth removed, compact the soil and will rake it smooth to the surface level. However, the Company will not be responsible for any other restorative work (e.g., repaving, grass reseeding nor any settling of refilled earth or pavement.).

1.24 The Work may be delayed or cancelled by the Company, or this Agreement renegotiated subject to the approval of the Parties which shall not be unreasonably withheld, due to events beyond the Company's reasonable control (e.g., adverse weather conditions, adverse soil or digging conditions, presence of ledge, wetlands, Hazardous Materials or denial or delay in issuance of necessary permits or imposition of burdensome conditions imposed by any permit granting authority, labor disputes, or an event of force majeure), as provided herein.

Article 2 - Ownership of Pipes, Meters, Fittings, etc.

2.1. The Company will retain title, ownership and control of all pipes, services, mains, meters and fittings up to Customer's piping at the meter fit. All equipment, including without

limitation heating systems, gas lines, piping, fittings and parts ("Equipment"), beyond (downstream of) the Company's meter fit are owned or controlled by the Customer. Customer shall insure that such Equipment is in compliance with all applicable codes, laws and standards. Customer acknowledges that it is responsible for the operation, inspection and maintenance of its Equipment.

Article 3 - Customer Payments/Deposits.

3.1. The estimated Cost of the Work described above is \$388,279, from which Actual Cost of the Work may vary by no more than twenty-five percent (25%), i.e., up to \$485,349, consistent with Paragraph 1.24. Initially Customer shall contribute \$0 toward this amount. Customer acknowledges that it may be invoiced reasonable additional sums with regard to the Work to the extent provided in Paragraphs 1.2 and 1.3 above. All uncontested invoices submitted by the Company to the Customer hereunder or portions thereof shall be paid no later than thirty (30) days after the billing date (the "Due Date"). Customer's payment, payable to the Company, shall be forwarded to the financial institution and account number designated on the bill via first class mail or by wire transfer. Payment shall not be deemed to have been made until actually received by such financial institution. Should Customer fail to pay all or a portion of any invoice by its Due Date, Customer shall be liable for and shall pay a late payment charge "Charge for Late Payment", which may be included by the Company on subsequent invoices rendered to Customer. Such Charge for Late Payment shall be a rate not to exceed 1.5% per month, 18% per annum, and shall apply to contested invoices or portions thereof, where the Parties agree or if it is determined that such amounts are due and payable to the Company.

3.2. In the event that the Company reasonably is concerned about future payment under the terms of this Agreement based upon unexcused failures or delays in payment by the Customer, the Company may request that Customer provide a guaranty, executed by an affiliated entity reasonably satisfactory to the Company, guarantying Customer's obligations under this Agreement. In lieu of the guaranty, the Customer, at the Customer's sole discretion, may provide a letter of credit reasonably acceptable to the Company.

3.3. The enumeration of the foregoing shall not be deemed a waiver of any other remedies to which the Company is entitled in law or equity.

3.4. Payments, deposits and guarantees made under this Agreement are not for gas service or transportation service, but for Work.

Article 4 - Regulatory Oversight.

4.1. The terms and conditions of this Agreement may be subject to the review of the Massachusetts Department of Telecommunications and Energy ("MDTE"). Both Parties agree to comply with any reasonable changes required in this Agreement required by, or orders of, the MDTE.

Article 5 - Material Default:

The following constitute events of Material Default:

5.1. Where the Customer (i) files for or becomes subject to a proceeding under federal or state bankruptcy or insolvency law seeking liquidation or reorganization, or the readjustment or indebtedness (unless such proceeding shall be dismissed within thirty (30) days from the date it is instituted); (ii) makes an assignment for the benefit of creditors, becomes insolvent, or is unable to pay its debts generally as they become due; (iii) consents to the appointment of any receiver, administrator, liquidator or trustee of its property or any receiver, administrator, liquidator or trustee shall be appointed for all or any part of the property of either Party; or (iv) takes any action for the purpose of effecting any of the foregoing;

5.2. Where the Facility is taken by exercise of the right of eminent domain or its equivalent by any authority, person or entity, unless (i) such authority, person or entity agrees to be bound by this Agreement; or (ii) Customer demonstrates to the reasonable satisfaction of the Company that its rights to operate the Facility for the balance of the term of this Agreement are substantially unimpaired. In the event of a taking entitling the Company to accelerate amounts due hereunder, the Company shall be entitled to any condemnation award not to exceed the amount of any amounts due under this Agreement, including without limitation all unpaid current and future MATRR's. Customer shall immediately notify the Company in writing of any actual or threatened condemnation action or proceeding and in any proceeding to determine the condemnation award shall introduce this Agreement as evidence of Customer's damages.

5.3. Where Customer conveys, transfers, loses or relinquishes its right to own or operate or occupy the Facility to any authority, person or entity, except an entity to whom Customer may assign this Agreement under Paragraph 9.11, unless the Company shall have approved of ownership, operation or occupancy of the Facility by such other person, authority or entity as the case may be, which approval may be made subject to the Company's reasonable satisfaction that same is capable of and willing to fulfill the requirements of this Agreement, or that Customer's rights to occupy or operate the Facility for the term of this Agreement are substantially unimpaired.

5.4. Where Customer abandons ownership, occupancy or operation of the Facility,

5.5. Where Customer fails to make commercially reasonable efforts to restore the Facility to full or substantially full operating condition following any casualty loss or any other disturbance to operations and such failure continues for at least sixty (60) days.

5.6. Where Customer repudiates this Agreement with respect to the performance of an obligation not yet due, or attempts to do so, or does not reply in writing within ten (10) days to the Company's inquiries regarding Customer's future performance hereunder.

5.7. Where Customer fails to perform, and does not cure at the Company's reasonable request within a reasonable period, a material obligation of this Agreement not otherwise specifically described in this Article 5.

5.8. Where Customer fails to maintain the guaranty or letter of credit required hereunder, or to pay the Company any amounts due in accordance with the terms of this Agreement, including without limitation the Minimum Annual Adjustment Fee, where any such failure is unexcused.

5.9. Where the Customer terminates its gas and/or transportation service obtained from the Company, prior to the expiration of the Term of this Agreement, except as provided in Paragraph 1.4.

The defaulting Party shall provide written notice of the occurrence of any event of Material Default by such Party promptly upon such Party's initiating or learning of the occurrence of such event.

Article 6 - Remedies.

6.1. In addition to, and independent of, any other rights or remedies available to the Company (including without limitation its rights of indemnification), upon the occurrence of an event of Material Default, the Company shall have the right, but not the obligation, upon ten (10) days prior notice the Customer, to declare all amounts (past, current and future) due hereunder, including without limitation all MATRR payments which would have been due during the term of this Agreement, immediately due and payable to the Company. In such event, Customer shall be obligated to immediately pay to the Company the discounted present value (at a nine percent [9%] rate) of the difference between ten (10) times the MATRR and the actual transportation payments made by Customer to date under this Agreement upon receipt of an invoice from Company for such amounts.

Article 7 - Force Majeure.

7.1. To the fullest extent allowed by law, the Company shall not be liable in damages or otherwise for any failure to perform its obligations hereunder occasioned by or in consequence of any event of *force majeure*, including acts of God, strikes, lockouts, labor disputes or other industrial disturbances, acts of the public enemy or terrorists, civil disturbances, wars, blockades, riots, epidemics, landslides, lightning, earthquakes, fires, storms, storm warnings resulting in the abandonment of Company facilities, explosions, or accident to Company machinery or lines of pipe, partial or total failure or threat thereof to Company's reserved firm transportation capacity, partial or total failure to perform of upstream transporting pipelines, emergency repair to equipment or lines of pipe, or by a break, or fault, or threat thereof, in Company's distribution system, the order, action or inaction or delay of any court or regulatory, governmental or public authority which prevents, delays or restricts performance and which has been resisted in good faith by reasonable legal means, a controversy with a landowner or any holder of an interest in

real estate resulting in the inability of the Company to acquire (under commercially reasonable terms and conditions), or causing delays on the part of the Company in acquiring, servitudes, easements, rights of way, grants, permits or licenses necessary to enable the Company to fulfill its obligations hereunder, or any other similar or dissimilar cause, whether of the kind herein enumerated or otherwise, to the extent any of which is beyond the Company's reasonable control and by the exercise of due diligence the Company is unable to overcome.

7.2. A claim of *force majeure* shall not relieve the Company of liability in the event of its failure to use due diligence to remedy the situation and remove the causes or contingencies affecting the performance of this Agreement, nor shall a claim of *force majeure* or impossibility relieve any Party from its payment obligations hereunder, including without limitation the MATRR, although any such event shall result in a temporary abatement of the Customer's obligations hereunder to the extent it results in any interruption of gas service of more than three (3) consecutive days during any thirty-day (30) period. The occurrence of a *force majeure* event affecting the Company's system shall not be a basis for the Customer's termination of this Agreement nor shall it be the basis for a permanent reduction of the MATRR. The term of this Agreement shall be extended for the same period of time that service was not provided to the Customer. Nothing contained herein shall be construed to require the Company to settle or prevent (i) a strike or other controversy with employees or with anyone purporting or seeking to represent employees, or (ii) a controversy with a landowner.

Article 8 - Limitation of Liability/Indemnification

To the fullest extent allowed by law, the Parties agree that:

8.1. Unless there is negligence on the part of the Company, the Company shall not be liable for damage to the person or property of the Customer or any third party resulting from the use of gas or the presence of the Company's appliances and equipment on the Customer's premises. In no event shall the Company be liable to the Customer or any third party for any indirect, consequential, or special damages, whether arising in tort, contract or otherwise, by reason of any services or Work performed under this Agreement, or undertaken to be performed, or actions taken by the Company, or its agents or employees, under the Schedule of Rates, or in accordance with or required by law.

8.2. The Customer assumes full responsibility for the proper use of gas delivered by the Company and for the condition, suitability and safety of any and all Equipment owned or controlled by the Customer which is not the Company's property. The Customer shall indemnify and save harmless the Company from and against any and all claims, expenses, legal fees, losses, suits, awards or judgments for injuries to or deaths of persons or damage of any kind, whether to property or otherwise, arising directly or indirectly by reason of: (i) the routine presence in or use of gas from pipes owned or controlled by the Customer; or (ii) the failure of the Customer to perform any of its duties and obligations as set forth in this Agreement where such failures creates safety hazards; or (iii) the Customer's improper use of gas or its Equipment.

8.3. Notwithstanding the foregoing, with regard to "Environmental Impact Claims" (defined below), the Customer shall, to the fullest extent permitted by law and as a contractual condition of this Agreement, release, defend, indemnify and hold harmless the Company, its subcontractors, and Company's agents, officers, affiliates, directors and employees from and against all claims, damages, losses and expenses, whether direct, indirect, or consequential, including without limitation fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the actions or inactions of the Company, its agents or subcontractors or from any claims against the Company arising from the acts, omissions, or work of others. Such release and indemnity by the Customer shall not apply where a Hazardous Material (defined below) is first introduced into the environment as a result of the Company's or its agents negligence. Environmental Impact Claims are defined as claims, suits, judgments, costs, losses and expenses (including attorneys' fees) that arise out of, are related to, or are based upon the actual or threatened dispersal, discharge, escape, release, of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, or any other material, irritant, contaminant, or pollutant in or into the atmosphere or on, onto, upon, in or into the surface or subsurface (i) soils, (ii) water or water course, (iii) objects, or (iv) any tangible or intangible matter, whether sudden or not. The Parties agree that the Company is released from responsibility and/or liability for any conditions or at about the Facility. The Parties agree that the Customer shall bear full responsibility and liability for the existence or presence at the Facility of any toxic, hazardous, radioactive, infectious or other dangerous substances and all substances or materials regulated at any time of determination as toxic or hazardous according to any United States federal or Commonwealth of Massachusetts law or regulation (collectively, "Hazardous Materials"). The Parties recognize that the Company is not charged with searching for or identifying Hazardous Materials. The Company shall notify the Customer and may inform any governmental agency with jurisdiction, of any soil that it excavates or any materials it comes in contact with at the Facility which has any unusual odor, texture, or appearance or any other unusual condition. In such instances, the Company may cease Work and shall inform the Customer of such occurrence. The Company may resume the Work when the Customer (through appropriate experts) has determined that such soil does not contain Hazardous Materials or once the Customer provides instructions and means (e.g. contractors, funds, etc.) for the proper disposition of contaminated soil or other Hazardous Materials, if any. The Customer shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures and/or remedial action and Customer agrees to share such information with the Company. Such measures shall be the sole responsibility of the Customer and shall be performed in a manner minimizing any adverse affect upon the Work.

8.4. The Parties acknowledge and understand that the actions which may be undertaken as part of the Work, including subsurface excavation, entail uncertainty and risk of injury or damage to facilities or structures that cannot be avoided even with compliance of generally accepted engineering practices.

8.5. The provisions of this Article 8 shall survive the termination or expiration of this Agreement.

Article 9 - Other Important Provisions

9.1. This Agreement is effective as of the date first written above and shall continue in full force and effect for ten (10) years from the Payment Commencement Date or until all obligations and duties of the Parties provided for under this Agreement have been fulfilled.

9.2. The Parties acknowledge that the Company's terms and conditions and rates approved by and on file with the MDTE (the "Tariff") shall govern the sale and/or transportation of gas by the Company to the Customer. Notwithstanding the foregoing, the Parties may enter into an agreement to sell and/or transport gas not subject to the Tariff, provided that MDTE approves any such agreement to the extent required under applicable law.

9.3. No waiver by a Party of any of one or more defaults by the other Parties in the performance of this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or different character. Customer hereby waives any right to contest any motion by the Company for Relief from the Automatic Stay provisions of the U.S. Bankruptcy Code or similar provisions of any state law.

9.4. At all times during the term of this Agreement, each Party shall comply with all applicable laws of all governmental authorities having jurisdiction over the Work.

9.5. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, representations and understandings, written or oral, pertaining thereof. Any modifications, amendments, or changes to the Agreement shall be binding upon the Parties only if agreed upon in writing by authorized representative of the Parties hereto.

9.6. All headings and captions contained in this Agreement are for convenience only and shall not, in any way, affect the meaning of any provision hereof. This Agreement may be executed or amended in one or more counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of which together shall constitute one instrument. Facsimile signatures of the Parties on this instrument and any amendment thereto, shall be legally binding.

9.7. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid such provision shall be deemed modified so as to be no longer invalid and, all of the remaining provisions of this Agreement shall remain in full force and effect. The recitals set forth in this Agreement are an integral part hereof and shall have the same contractual significance as any other language contained in this Agreement.

9.8. Every notice, request, or other statement to be made or delivered to a Party pursuant to this Agreement shall be directed to such Party's representative at the address or facsimile number given below or to such other address or facsimile number as the Party may designate from time to time. The Parties' addresses and facsimile numbers are:

(a) If to Customer:

Richard A. Karelitz, Esq.
FRAL Corp. and
Foxborough Realty Associates LLC
One Boston Place
Boston, MA 02108
Phone: (617) 305-7612
Fax: (617) 305-7712

Andrew D. Wasynczuk
FRAL Corp. and
Foxborough Realty Associates LLC
60 Washington Street
Foxborough, MA 02035-1399

With a copy to:

Steven J. Comen, Esq.
Goodwin Procter LLP
Exchange Place
Boston, MA 02109
Phone: (617) 570-1660
Fax: (617) 523-1231

(b) If to the Company:

Edward Furtado
Bay State Gas Company
995 Belmont Street
Brockton, MA 02301
Phone: 508-580-0100
Fax: 508-427-5741

Joseph Henriques, Sales Manager
Bay State Gas Company
995 Belmont Street
Brockton, MA 02301
Phone: 508-580-0100
Fax: 508-427-5741

With a copy to:

Legal Department
Bay State Gas Company
Westborough, MA 01581
Phone: 508-836-7000
Fax: 508-836-7039

For purposes of this Agreement, the date on which any notice, request, statement, payment or other communication (including communication by facsimile) shall be deemed to have been given shall be the date on which it is received by the recipient or the date on which receipt is refused.

9.9. It is specifically agreed by the Parties hereto that in no event shall any rights to termination or damages conferred by law or conferred by this Agreement be presumed to be adequate remedies for any Material Default hereunder.

9.10. All Work performed by or on behalf of the Company has been and will be performed by the Company's own employees or by union contractors.

9.11. Any entity which shall succeed by purchase, merger or consolidation to the properties, substantially or as an entity, of either Party hereto, shall be entitled to the rights and shall be subject to the obligations of its predecessor in interest under this Agreement. The Company or Customer may, without relieving itself of its obligations under this Agreement, assign or transfer any of its rights or obligations hereunder to an entity with which it is affiliated, but otherwise no assignment or transfer of this Agreement or any of the rights and obligations hereunder shall be made, unless there first shall have been obtained the written consent of the other Party. Such consent shall not be unreasonably withheld or delayed. It is agreed, however, that the restrictions on assignment/transfer contained herein shall in no way prevent either Party from pledging or mortgaging its rights hereunder as security for its indebtedness.

9.12. This Agreement is entered into in and shall be construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its choice of law principles. The Parties hereto agree that any and all actions, suits or claims with respect to this Agreement shall be brought in a state or federal court located in the Commonwealth of Massachusetts or before the MDTE, if appropriate. This Agreement shall not be interpreted either more or less favorably toward either Party by virtue of the fact that such Party or its counsel was responsible or principally responsible for the drafting of all or a portion hereof.

9.13. This Agreement is entered into solely for the benefit of the Parties and is not intended to confer third-party beneficiary status on anyone else. Nothing in this Agreement shall be deemed to constitute a joint venture, partnership, corporation or any other entity taxable as a corporation or otherwise.

[SIGNATURE PAGES TO FOLLOW]

Date:

Date:

CERTIFICATE OF CORPORATE AUTHORITY

I, Richard A. Karelitz, do hereby certify that I am the duly elected, qualified and acting Assistant Secretary of FRAL Corp. and Foxboro Realty Associates, LLC (collectively, the "Customer"), entities in good standing with authority to conduct business in Massachusetts.

I hereby further certify that ANDREW WASNYCZUK is authorized to execute and deliver on behalf of Customer and bind said corporation to the foregoing Agreement by and between said corporation and Bay State Gas Company, dated as of August 9, 2001.

WITNESS my hand and the corporate seal of Customer this day of September 2001.

Richard A. Karelitz
Assistant Secretary

RICHARD A. KARELITZ
Print Name

EXHIBIT B

Early Termination Buyout	
A	B
Beginning of Contract Year	Buyout Amount
1	\$388,279
2	\$343,876
3	\$299,473
4	\$255,070
5	\$210,667
6	\$166,264
7	\$121,861
8	\$77,458
9	\$33,0550
10	0

Exhibit A

Description of Work

- Installation of 7,200 feet of gas main (six-inch plastic pipe) to be connected to the nearest point on the Company's existing gas main.
- Installation of four gas service lines (450 feet of four-inch and 1,000 feet of two-inch plastic pipe).
- Installation of four gas meters.
- Plus all associated labor and miscellaneous materials.

FAX TRANSMISSION

COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF CORRECTION
100 CAMBRIDGE STREET
BOSTON, MASSACHUSETTS 02202
(617) 727-3300 EXT. 144
FAX: (617) 727-7403

To: William D. MacGillivray
Counsel, Bay State Gas Co.

Date: 9/29/99

Fax #: 508-836-7073

Pages: ⑨, including this cover sheet.

From: Herbert Charles Hanson,
Associate General Counsel

Subject: Bridgewater / Bay State Gas Agreement

COMMENTS:

Bill,

I'm pleased to attach a signed Agreement for the above project. The DOC has accepted the contract in full. As soon as I receive the original signed copy, I'll forward it to you along with the revision number of copies. In the meantime, please consider the contract in force as of today.

Thanks for your assistance!

Herb H

COMMONWEALTH OF MASSACHUSETTS STANDARD CONTRACT FORM



This form is jointly issued by the Executive Office for Administration and Finance (AEF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth Departments. Any changes to the official printed language of this form as published by AEF, CTR and OSD shall be void. This shall not prohibit the addition of non-conflicting Contract terms. The quality of all performance by the Contractor under this Contract must be timely and meet or exceed industry standards. The Contractor shall comply with all applicable Commonwealth ("State") and Federal laws and regulations and perform this Contract in accordance with the applicable Commonwealth Terms and Conditions set forth below.

(The Contractor Must Complete Only Those Sections provided by an "X")

>> Vendor Code: >> CONTRACTOR NAME: Bay State Gas Company >> Contract Manager: John R. Snow >> Phone: (508) 836-7091 >> Fax: (508) 836-7039 >> Business and Mailing Address: 300 Friberg Parkway Westborough, MA 01581		Document ID: DEPARTMENT NAME: Department of Corrections (at Bridgewater Correctional Complex) Contract Manager: PETER V. MACCHI Phone: 508-488-3333 Fax: 508-482-3382 Business and Mailing Address: 50 Middle St, Suite 3 Milford, MA 01757-3698	
Terms and Conditions that apply to this Contract (Completed by Department. Check one option only): <input checked="" type="checkbox"/> COMMONWEALTH TERMS AND CONDITIONS (Standard) OR <input type="checkbox"/> COMMONWEALTH TERMS AND CONDITIONS FOR HUMAN AND SOCIAL SERVICES		Completion (Completed by Department): <input type="checkbox"/> Maximum Obligation of this Contract: \$ _____ OR <input type="checkbox"/> No Maximum Obligation established. <input type="checkbox"/> Rate Contract with a Rate of \$ _____ Per _____ (Multiple Rates Must Be Attached) <input type="checkbox"/> Statutory Contract or Qualified Life Contract See Attached	
Execution and Filing Status of applicable Terms and Conditions: (Check one option only): <input type="checkbox"/> Previously executed by Contractor and is on file as prescribed by CTR. OR <input checked="" type="checkbox"/> Executed by Contractor and is attached to this Contract		Payment Type: FOR INFORMATION PURPOSES ONLY (Completed by Department- Check one option only) <input type="checkbox"/> Payment Voucher <input type="checkbox"/> Ready Payment (Schedule) Initial Rate Amt: \$ _____ <input type="checkbox"/> Contractor Payroll <input type="checkbox"/> Recurring Payment	
Start Date of This Contract: See Attached (Completed by Department. Subject To Section 1. of the applicable Terms and Conditions)		Termination Date of This Contract: See Attached (Completed by Department. Subject To Section 4. of the applicable Terms and Conditions)	
Brief Description of Performance: (Completed by Department) Attach a copy of the Request for Response (RFR) and the Contractor's Response and any additional negotiated terms, if applicable; or if an RFR was not required attach appropriate justification documentation including exception from RFR requirement and details of scope of performance and compensation. See attached Energy Related Service Agreement.			

IN WITNESS WHEREOF, the Contractor certifies, under the pains and penalties of perjury that it is in compliance with all of the following provisions and shall remain in compliance with these provisions for the life of this Contract: That the Contractor is qualified to perform this Contract and possesses, or shall obtain, all qualifications and permits to complete performance under this Contract; that it is in compliance with all federal and state laws, including M.G.L. c. 62C, §49A; that pursuant to M.G.L. c. 151A, §19A and M.G.L. c. 152, it will comply with all laws and regulations relating to payment to the Employment Security System and required workers' compensation insurance policies; that it shall carry professional and personal injury liability insurance sufficient to cover its performance under this Contract; that it will comply with all relevant prevailing wage rate and employment laws; that it is in compliance with the provisions of the Acts of 1993, c. 521, §7 as amended by the Acts of 1991, c. 229 and 192, c. 120 and that the Contractor is either a "qualified employer" (it has 50 or more full time employees and has established a dependent care assistance program, child care tuition assistance, or on-site or near-site child care placement) or the Contractor is an "exempt employer"; that pursuant to M.G.L. c. 156B, §109 (business corporations), c. 180, §26A (non-profit corporations), c. 121, §4 (foreign corporations) and c. 12, §5B (public charities) it has filed all required certificates and reports with the Secretary of State and the Attorney General's Office; that it is in compliance with Federal Anti-Lobbying requirements of 31 USC 1352; that it and any of its subcontractors are not currently debarred or suspended by the federal government or the State under any law or regulation, including Federal Executive Orders 12549 and 12689, Executive Order 1417, M.O.L. c. 23, §29F and M.G.L. c. 152, §20C; and that it shall comply with Executive Orders 120, 346 and 353, M.G.L. c. 268A, c. 7, §22C and any additional provisions specified in this Contract; and IN WITNESS WHEREOF, the Contractor certifies under the pains and penalties of perjury that it has submitted a Response to a Request for Response (RFR) issued by the Department and that this Response is the Contractor's offer as evidenced by the execution below of the Contractor's authorized signature; and that this Response may be subject to negotiation by the Department, and that the terms of the RFR, the Contractor's Response and any negotiated terms of the Response shall be deemed accepted by the Department and included as part of this Contract, which incorporates by reference the applicable Terms and Conditions, upon execution of this Contract by the Department's authorized signature as of the date indicated below, OR if this Contract is not the result of a Request for Response solicitation that this Contract complies with all applicable laws and regulations as indicated by the execution of the authorized signature of the Department and the Contractor as of the last date indicated below.

FOR THE CONTRACTOR:

XX: John R. Snow
 (Signature)
 >>NAME: John R. Snow
 >>TITLE: Vice President
 >>DATE: 9-27-99

FOR THE DEPARTMENT:

✓ XI: Peter V. Macchi
 (Signature)
 NAME: PETER V. MACCHI
 TITLE: Director of Administration Services
 DATE: 9-29-99

COMMONWEALTH TERMS AND CONDITIONS



This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Department of Procurement and General Services (PDS) for use by all Commonwealth of Massachusetts (State) Departments and Contractors as the official version of this form, as jointly published by ANF, CTR and PDS. shall void this form and any underlying contract. Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any contract for Commodities and Services executed by the Contractor and any State Department. In the absence of a superseding law or regulation requiring a different contract form, Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department in accordance with the other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and PDS.

2. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, or to contract start date indicated in a Contract, the contract start date of performance under a Contract, shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a date date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

3. Payment and Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. c. 29, §26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to interest pursuant to M.G.L. c. 7A, §2 and 815 C.M.R. 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

4. Contractor Payment Mechanism. All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Voucher - Form P-4) and supporting documentation as provided in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 C.M.R. 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

5. Contract Termination or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unexcused public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed to be beyond the Contractor's control.

6. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered in the Contractor shall state

the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any extensions or modifications extending allowable anti-litigation costs or expenditures by the Contractor during the notice period.

7. Confidentiality. The Contractor shall comply with M.G.L. c. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

8. Record-keeping and Retention of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract for a minimum retention period of seven (7) years beginning on the last day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 193, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including periodic reviews and reproduction of such records at a reasonable expense.

9. Indemnification. The Contractor shall accept all risks of damage, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be obligated to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. c. 106, §9-2.13. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party entities will be processed as if such payments were being made directly to the Contractor and these payments will be subject to income, office, contract claims or any other Department claims which are available to the Department or the State against the Contractor.

10. Subcontracting by Contractor. Any subcontract entered into by the Contractor for the purpose of fulfilling the obligations under a Contract must be in writing, submitted in advance to the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontractors will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

11. Affirmative Action - Non-Discrimination in Hiring and Employment. The Contractor shall comply with all federal and state laws, rules and regulations governing fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be denied, discharged or otherwise subject to discrimination in the terms, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor contracts to purchasing supplies and services from verified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

12. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damage, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, whether or not negligent, of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

13. Waiver. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor to any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

14. Risk of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personnel or other data which is in the possession of the Contractor or used by the Contractor

ENERGY RELATED SERVICES AGREEMENT

This Agreement entered into this _____ day of _____, 1999 by and between Bay State Gas Company ("Bay State"), a Massachusetts gas distribution company, and Department of Correction by the MCI-Bridgewater which includes the Bridgewater Correctional Complex ("MCI-B"), an agency of the Commonwealth of Massachusetts.

Recitals

A. Bay State is ready and willing to provide the necessary extensions to its system to (a) provide a gas service line to the power plant (b) provide the necessary internal gas piping to two Riley boilers and one Cleaver Brooks boiler, and (c) to retro fit such boilers currently using oil for space and water heating ((a), (b) and (c) collectively being "the Work") so that such equipment ("the equipment") will have the capability to use either oil or gas as its fuel, and

B. MCI-B is ready and willing to use gas as its primary fuel for the equipment for a minimum term sufficient to cover the costs to Bay State of performing the Work.

NOW, THEREFORE, in consideration of the premises and mutual covenants and conditions herein contained, Bay State and MCI-B agree as follows:

Article 1 Responsibility of the Parties

1.1. Responsibility of MCI-B

1.11 MCI-B will be prepared for Bay State to begin the Work within one (1) month of the date of this Agreement; Bay State has the right to renegotiate terms and conditions or cancel this agreement if MCI-B is not prepared within four (4) months of the date of this Agreement.

1.12 MCI-B agrees to begin using/purchasing Bay State's gas and/or transportation service within 90 days of completion of the first of three boilers to be installed (the "Initial Phase"). If such use/purchase does not begin within this time, MCI-B shall reimburse Bay State for the actual cost of the Work, unless an extension of time for good cause is agreed upon in writing which agreement shall not be unreasonably withheld.

1.13 MCI-B warrants that natural gas will be the primary fuel for the equipment. MCI-B agrees to purchase a minimum volume of gas (from Bay State or from others but with delivery by Bay State) per annum during each consecutive twelve month period, commencing with the first month after the Work is completed, ("Commencement Date") for a period of ten years. The minimum volume in terms of transportation revenues to Bay State billed by Bay State to MCI-B shall be at least \$383,000 during each 12 month period from the Commencement Date and for subsequent Anniversary Dates. (Transportation revenues are represented on the monthly bill as the sum of Customer Charges and Distribution Charges or if MCI-B becomes a transportation customer only then transportation revenue will be Customer Charge plus Transportation Charge.) If transportation revenues received by Bay State are less than the minimum transportation

revenues of \$363,000, Bay State shall charge, and MCI-B agrees to pay, a Minimum Annual Adjustment fee of the difference between \$363,000 and the actual transportation revenue received. Transportation revenues received by Bay State from MCI-B in excess of \$363,000 in any 12 month period, shall be applied to reduce MCI-B's minimum payment requirement in subsequent years. Minimum volumes applicable to any period of less than twelve months shall be determined by proration of the minimum annual volume and associated transportation revenues. Such payment under this paragraph is not a payment for gas but shall be considered a payment for a service.

1.14 MCI-B will identify underground infrastructure (e.g.: sprinkler system, septic system, underground electric, etc.) or of any other structure or condition on or about its property which could affect the Work hereunder requested.

1.2 Responsibilities of Bay State

1.21 Bay State's facilities and all aspects of the Work to be performed on MCI-B's equipment and transferred to MCI-B will meet applicable standards, laws and codes.

1.22 Bay State will begin Work within a reasonable period of time after this Agreement has been signed by both parties, and MCI-B is prepared for the Work to begin. Bay State is not responsible for any MCI-B losses caused by Work delays or cancellation or any refusals by a governmental authority to issue any necessary permits or approvals.

1.23 Bay State will refill any excavation with earth removed, compact the soil, and will rake it smooth to the surface level, however, Bay State will not be responsible for grass reseeding nor for any settling of refilled earth.

1.24 This installation may be delayed or cancelled, or the terms renegotiated, due to adverse weather or digging conditions, or denial of necessary permits or approvals.

1.3 The parties understand that, by order of the Massachusetts Department of Environmental Protection signed on June 15, 1999, the Cleaver Brooks boiler must be converted by October 15, 1999, and the two Riley fire tube boilers by October 15, 2000. If BSG learns or determines that either of these deadlines will not be met, it shall immediately inform MCI-B in writing as to the anticipated length of delay and the cause of the delay. MCI-B will immediately convey that information to DEP with a request for extension of the relevant deadline as required under the DEP order. The parties agree that these deadlines govern the project timetable except for presently unforeseen circumstances outside of their control which may result in delay.

Article 2 Ownership of Pipes, Meters, Fittings, etc.

2.1 Bay State will retain title, ownership and control of all pipes, services, mains, meters and fittings up to MCI-B's piping. All piping, fittings, parts and equipment installed as part of the Work beyond Bay State's meter will become the property of MCI-B when MCI-B has fully complied with the covenants and conditions of this Agreement. The equipment that will become the property of MCI-B is warranted to be free from

defects in design and operation for one year from the date of initial operation. During such warranty period, Bay State will at no cost to MCI-B either repair or replace parts of the equipment to achieve the intended specifications. After the warranty period, MCI-B will be responsible for the maintenance, repair or replacement of such equipment. Bay State has the right to serve other customers with the gas mains it installs pursuant to this Agreement as long as such service does not interfere with the supply of gas necessary for MCI-B to operate the boilers.

Article 3 Payment

3.1 Bay State's estimated cost of Work described above is \$2,216,540. MCI-B shall contribute \$0.00 toward this cost at installation. MCI-B acknowledges that it may be billed additional amounts for the cost of the Work pursuant to Paragraph 1.13 above if it fails to take delivery of the required volume of gas that will provide a minimum of \$363,000 in transportation revenue to Bay State. MCI-B will be billed regularly (either monthly or bimonthly) for gas use at gas rates approved by, and on file with, the Massachusetts Department of Telecommunications and Energy ("MDTE").

Article 4. Regulatory Oversight

4.1 The terms and conditions of this Agreement may be subject to the review and approval of the "MDTE" and both parties agree to comply with any changes required in this Agreement or orders of the MDTE in complying with this Agreement. MCI-B is also subject to the general terms and conditions approved by the MDTE from time to time for the sale or transportation of gas. This Agreement shall also be subject to the Commonwealth of Massachusetts Standard Contract Form which will be executed along with this Agreement, and the related Terms and Conditions.

Article 5 General Provisions

5.1 If the Parties are unable to agree with the performance of the provisions of this Agreement, any claim shall be settled by arbitration administered by the American Arbitration Association ("AAA") under its Construction Industry Arbitration Rules (or any other party that the Parties mutually agree to in writing), and the award rendered by the arbitrators shall be final and binding on the parties thereto, but such award shall be subject to and may be overruled by any order of the MDTE. The arbitration shall be conducted by a panel of three (3) arbitrators. Judgment on such award may be entered in any court having jurisdiction thereof. Arbitration proceedings shall be held in Boston, Massachusetts unless the Parties mutually agree on another location.

5.2 No waiver by a Party of any one or more defaults by the other Parties in the performance of this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or different character.

5.3 No Party shall Transfer its interest in this Agreement without first obtaining the prior written consent of all other Parties.

5.4 At all times during the term of this Agreement, each Party shall comply with all applicable Laws of all governmental authorities having jurisdiction over the Work.

5.5 This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, representations and understandings, written or oral, pertaining thereto, except that, in any inconsistency between this Agreement and the Commonwealth's form "Terms and Conditions" (previously signed) or the Standard Commonwealth Contract form, the provisions of the Commonwealth form shall govern. Any modifications, amendments, or changes to this Agreement shall be binding upon the parties only if agreed upon in writing by all the Parties hereto.

5.6 The descriptive headings of all Articles and Sections of this Agreement are formulated and used for convenience only and shall not be deemed to affect the meaning or construction of any such Article or Section.

5.7 Any provision of this Agreement that is illegal, prohibited or unenforceable under Massachusetts or federal law shall be specifically treated as null and void without effect on the remainder of the Agreement except as may be necessary under the remaining provisions. MCI-B's obligations under this Agreement are also conditional on the availability of funding appropriated by the Commonwealth.

5.8 Every notice, request, or other statement to be made or delivered to a Party pursuant to this Agreement shall be directed to such Party's representative at the address or facsimile number given below or to such other address or facsimile number as the party may designate from time to time. The Parties' addresses and facsimile numbers are:

(a) If to MCI-B:

Paul Murphy, Assistant Deputy Commissioner
Bridgewater Complex—The Matt Talbot House
15 Administration Road, P.O. Box 628
Bridgewater, MA 02324

Phone: 617-727-0417, Ext. 2000
Fax: 617-727-1719

(b) If to Bay State:

Bay State Gas Company
300 Friberg Parkway
Westborough, MA 01581

Attention: William D. MacGillivray
Phone: 508-836-7355
Fax: 508-836-7039

For purposes of this Agreement, the date on which any notice, request, statement, payment or other communication (including communication by Facsimile) shall be deemed to have been given shall be the date on which it is received by the recipient.

5.9 It is specifically agreed by the Parties hereto that in no event shall any rights to termination or damages conferred by law or conferred by this Agreement be presumed to be adequate remedies for any default hereunder. Each party does

therefore fully reserve its rights, after exhaustion of dispute resolution procedures pursuant to Section 5.1 above, to seek through judicial proceedings specific performance of any term of this Agreement.

5.10 Both parties represent to each other that their organization has authority to enter into this Agreement and that all of the terms and conditions will be binding and lawful obligations of the party making the representation.

5.11 This Agreement shall become effective upon execution and delivery hereof by each of the Parties and shall continue in force and effect until all obligations and duties of the Parties provided for under this Agreement have been fulfilled, unless sooner terminated as set forth herein.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the Effective Date by a duly authorized representative having authority to bind such Party to the obligations contained herein.

MCI-B

✓ By: Peter V. Macchi

Its: PETER V. Macchi

Bay State Gas Company Director of Administrative Services

By: John R. Snow

Its: Vice President

HEAVYWORKS/MACCHIS AGREEMENT.doc

COMMONWEALTH OF MASSACHUSETTS STANDARD CONTRACT FORM



This form is jointly issued by the Executive Office for Administration and Finance (AEF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth Departments. Any changes to the official printed language of this form as published by AEF, CTR and OSD shall be void. This shall not prohibit the addition of non-conflicting contract terms. The quality of all performance by the Contractor under this Contract must be strictly and exactly in accordance with the applicable Commonwealth Terms and Conditions and all applicable Federal laws and regulations and perform this Contract in accordance with the applicable Commonwealth Terms and Conditions as follows:

(The Contractor Must Complete Only Those Sections preceded by an >>>)

>>> Vendor Code:	Document ID:
>>> CONTRACTOR NAME: Bay State Gas Company	DEPARTMENT NAME: Department of Corrections (at Bridgewater Correctional Complex)
>>> Contract Manager: John R. Snow	Contract Manager: PETER V. MACCHI
>>> Phone: (508) 836-7091 >>> Fax: (508) 836-7039	Phone: 508-432-3353 Fax: 508-432-3382
>>> Business and Mailing Address: 300 Fibbers Parkway Needham Heights, MA 01951	Business and Mailing Address: 50 Maple St, Suite 3 Milford, MA 01757-3698
Terms and Conditions that apply to this Contract (Completed by Department. Check one option only): <input checked="" type="checkbox"/> COMMONWEALTH TERMS AND CONDITIONS (Standard) OR <input type="checkbox"/> COMMONWEALTH TERMS AND CONDITIONS FOR HUMAN AND SOCIAL SERVICES	Compensation (Completed by Department) Maximum Obligation of this Contract: \$ _____ OR No Maximum Obligation established: Rate Contract with a Rate of \$ _____ Per: _____ (Multiple Rates Must Be Attached) Statewide Contract or Qualified List Contract See Attached
Execution and Filing Status of applicable Terms and Conditions: (Check one option only): <input type="checkbox"/> Previously executed by Contractor and is on file as prescribed by CTR. OR <input checked="" type="checkbox"/> Executed by Contractor and is attached to this Contract	Payment Type: FOR INFORMATION PURPOSES ONLY (Completed by Department. Check one option only) Payment Voucher Ready Payment (Schedule: _____ Initial Base Amt: \$ _____) Contractor Payroll Recurring Payment
Start Date of This Contract: See Attached (Completed by Department. Subject To Section 4. of the applicable Terms and Conditions)	(Termination Date of This Contract: See Attached) (Completed by Department. Subject To Section 4. of the applicable Terms and Conditions)
Brief Description of Performance: (Completed by Department) Attach a copy of the Request for Response (RFR) and the Contractor's Response and any additional negotiated terms, if applicable; or if an RFR was not required attach appropriate justification documentation including exemption from RFR requirement and details of scope of performance and compensation.	
See attached Energy Related Service Agreement.	

IN WITNESS WHEREOF, the Contractor certifies, under the pains and penalties of perjury that it is in compliance with all of the following provisions and shall remain in compliance with these provisions for the life of this Contract: That the Contractor is qualified to perform this Contract and possesses, or shall obtain, all requisite licenses and permits to complete performance under this Contract; that it is in compliance with all federal and state tax laws, including M.G.L. c. 62C, §49A; that pursuant to M.G.L. c. 151A, §19A and M.G.L. c. 152, it will comply with all laws and regulations relating to payments to the Employment Security System and required workers' compensation insurance policies; that it shall carry professional and personal injury liability insurance sufficient to cover its performance under this Contract; that it will comply with all relevant prevailing wage rate and employment laws; that it is in compliance with the provisions of the Acts of 1990, c. 521, §7 as amended by the Acts of 1991, c. 129 and 102 CMR 12.00 and that the Contractor is either a "qualified employer" (it has fifty (50) or more full time employees and has established a dependent care assistance program, child care tuition assistance, or on-site or near-site child care placement) or the Contractor is an "exempt employer"; that pursuant to M.G.L. c. 156B, §109 (Business Corporations), c. 180, §26A (non-profit corporations), c. 181, §4 (foreign corporations) and c. 17, §8F (public charities) it has filed all required certificates and reports with the Secretary of State and the Attorney General's Office; that it is in compliance with Federal Anti-Lobbying requirements of 31 USC 1352; that it and any of its subcontractors are not currently debarred or suspended by the Federal government or the State under any law or regulation, including Federal Executive Orders 12549 and 12689, Executive Order 1417, M.G.L. c. 29, §29F and M.G.L. c. 152, §25C; and that it shall comply with Executive Orders 130, 346 and 359, M.G.L. c. 268A, c. 7, §22C and any additional provisions specified in this Contract; and IN WITNESS WHEREOF, the Contractor certifies under the pains and penalties of perjury that it has submitted a Response to a Request for Response (RFR) issued by the Department and that this Response is the Contractor's offer as evidenced by the execution below of the Contractor's authorized signatory, and that this Response may be subject to negotiation by the Department, and that the terms of the RFR, the Contractor's Response and any negotiated terms of the Response shall be deemed accepted by the Department and included as part of this Contract, which incorporates by reference the applicable Terms and Conditions, upon execution of this Contract by the Department's authorized signatory as of the date indicated below, OR if this Contract is not the result of a Request for Response solicitation that this Contract complies with all applicable laws and regulations as indicated by the execution of the authorized signatories of the Department and the Contractor as of the last date indicated below:

FOR THE CONTRACTOR:

>>> X: John R. Snow
(Signature)
>>> NAME: John R. Snow
>>> TITLE: Vice President
>>> DATE: 9-27-99

FOR THE DEPARTMENT:

>>> X: Peter V. Macchi
(Signature)
NAME: PETER V. MACCHI
TITLE: Director of Administrative Services
DATE: 9-29-99

COMMONWEALTH TERMS AND CONDITIONS



This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Department of Procurement and General Services (PDS) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and PDS, shall void this form and any underlying Contract. Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any Contract for Commodities and Services executed by the Contractor and any State Department. In the absence of a superseding law or regulation requiring a different Contract form, performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and PDS.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in a Contract, the actual start date of performance under a Contract shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a later date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriations pursuant to M.G.L. c. 29, §26, or the availability of sufficient non-appropriated funds for the purpose of a Contract, and shall be subject to intercept pursuant to M.G.L. c. 7A, §3 and §15 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Voucher - Form PV) and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and §15 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purpose of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state

the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or notifications concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality. The Contractor shall comply with M.G.L. c. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

7. Record-keeping and Retention Suspension Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including e-mail reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. c. 106, §9A. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purpose of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontractors will not release or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations governing fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be denied, discharged or otherwise subject to discrimination in the terms, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damage, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. Waiver. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personnel or other data which is in the possession of the Contractor or used by the Contractor

ENERGY RELATED SERVICES AGREEMENT

This Agreement entered into this _____ day of _____, 1999 by and between Bay State Gas Company ("Bay State"), a Massachusetts gas distribution company, and Department of Correction by the MCI-Bridgewater which includes the Bridgewater Correctional Complex ("MCI-B"), an agency of the Commonwealth of Massachusetts.

Recitals

A. Bay State is ready and willing to provide the necessary extensions to its system to (a) provide a gas service line to the power plant (b) provide the necessary internal gas piping to two Riley boilers and one Cleaver Brooks boiler, and (c) to retro fit such boilers currently using oil for space and water heating ((a), (b) and (c) collectively being "the Work") so that such equipment ("the equipment") will have the capability to use either oil or gas as its fuel, and

B. MCI-B is ready and willing to use gas as its primary fuel for the equipment for a minimum term sufficient to cover the costs to Bay State of performing the Work.

NOW, THEREFORE, in consideration of the premises and mutual covenants and conditions herein contained, Bay State and MCI-B agree as follows:

Article 1 Responsibility of the Parties

1.1 Responsibility of MCI-B

1.11 MCI-B will be prepared for Bay State to begin the Work within one (1) month of the date of this Agreement; Bay State has the right to renegotiate terms and conditions or cancel this agreement if MCI-B is not prepared within four (4) months of the date of this Agreement.

1.12 MCI-B agrees to begin using/purchasing Bay State's gas and/or transportation services within 90 days of completion of the first of three boilers to be installed (the "Initial Phase"). If such use/purchase does not begin within this time, MCI-B shall reimburse Bay State for the actual cost of the Work, unless an extension of time for good cause is agreed upon in writing which agreement shall not be unreasonably withheld.

1.13 MCI-B warrants that natural gas will be the primary fuel for the equipment. MCI-B agrees to purchase a minimum volume of gas (from Bay State or from others but with delivery by Bay State) per annum during each consecutive twelve month period, commencing with the first month after the Work is completed, ("Commencement Date") for a period of ten years. The minimum volume in terms of transportation revenues to Bay State billed by Bay State to MCI-B shall be at least \$363,000 during each 12 month period from the Commencement Date and for subsequent Anniversary Dates. (Transportation revenues are represented on the monthly bill as the sum of Customer Charges and Distribution Charges or if MCI-B becomes a transportation customer only then transportation revenue will be Customer Charge plus Transportation Charge.) If transportation revenues received by Bay State are less than the minimum transportation

revenues of \$363,000, Bay State shall charge, and MCI-B agrees to pay, a Minimum Annual Adjustment fee of the difference between \$363,000 and the actual transportation revenue received. Transportation revenues received by Bay State from MCI-B in excess of \$363,000 in any 12 month period, shall be applied to reduce MCI-B's minimum payment requirement in subsequent years. Minimum volumes applicable to any period of less than twelve months shall be determined by proration of the minimum annual volume and associated transportation revenues. Such payment under this paragraph is not a payment for gas but shall be considered a payment for a service.

1.14 MCI-B will identify underground infrastructure (e.g.: sprinkler system, septic system, underground electric, etc.) or of any other structure or condition on or about its property which could affect the Work hereunder requested.

1.2 Responsibilities of Bay State

1.21 Bay State's facilities and all aspects of the Work to be performed on MCI-B's equipment and transferred to MCI-B will meet applicable standards, laws and codes.

1.22 Bay State will begin Work within a reasonable period of time after this Agreement has been signed by both parties, and MCI-B is prepared for the Work to begin. Bay State is not responsible for any MCI-B losses caused by Work delays or cancellation or any refusals by a governmental authority to issue any necessary permits or approvals.

1.23 Bay State will refill any excavation with earth removed, compact the soil, and will rake it smooth to the surface level, however, Bay State will not be responsible for grass reseeding nor for any settling of refilled earth.

1.24 This installation may be delayed or cancelled, or the terms renegotiated, due to adverse weather or digging conditions, or denial of necessary permits or approvals.

1.3 The parties understand that, by order of the Massachusetts Department of Environmental Protection signed on June 15, 1999, the Cleaver Brooks boiler must be converted by October 15, 1999, and the two Riley fire tube boilers by October 15, 2000. If BSG learns or determines that either of these deadlines will not be met, it shall immediately inform MCI-B in writing as to the anticipated length of delay and the cause of the delay. MCI-B will immediately convey that information to DEP with a request for extension of the relevant deadline as required under the DEP order. The parties agree that these deadlines govern the project timetable except for presently unforeseen circumstances outside of their control which may result in delay.

Article 2 Ownership of Pipes, Meters, Fittings, etc.

2.1 Bay State will retain title, ownership and control of all pipes, services, mains, meters and fittings up to MCI-B's piping. All piping, fittings, parts and equipment installed as part of the Work beyond Bay State's meter will become the property of MCI-B when MCI-B has fully complied with the covenants and conditions of this Agreement. The equipment that will become the property of MCI-B is warranted to be free from

defects in design and operation for one year from the date of initial operation. During such warranty period, Bay State will at no cost to MCI-B either repair or replace parts of the equipment to achieve the intended specifications. After the warranty period, MCI-B will be responsible for the maintenance, repair or replacement of such equipment. Bay State has the right to serve other customers with the gas mains it installs pursuant to this Agreement as long as such service does not interfere with the supply of gas necessary for MCI-B to operate the boilers.

Article 3 Payment

3.1 Bay State's estimated cost of Work described above is \$2,216,540. MCI-B shall contribute \$0.00 toward this cost at installation. MCI-B acknowledges that it may be billed additional amounts for the cost of the Work pursuant to Paragraph 1.13 above if it fails to take delivery of the required volume of gas that will provide a minimum of \$363,000 in transportation revenue to Bay State. MCI-B will be billed regularly (either monthly or bimonthly) for gas use at gas rates approved by, and on file with, the Massachusetts Department of Telecommunications and Energy ("MDTE").

Article 4. Regulatory Oversight

4.1 The terms and conditions of this Agreement may be subject to the review and approval of the "MDTE" and both parties agree to comply with any changes required in this Agreement or orders of the MDTE in complying with this Agreement. MCI-B is also subject to the general terms and conditions approved by the MDTE from time to time for the sale or transportation of gas. This Agreement shall also be subject to the Commonwealth of Massachusetts Standard Contract Form which will be executed along with this Agreement, and the related Terms and Conditions.

Article 5 General Provisions

5.1 If the Parties are unable to agree with the performance of the provisions of this Agreement, any claim shall be settled by arbitration administered by the American Arbitration Association ("AAA") under its Construction Industry Arbitration Rules (or any other party that the Parties mutually agree to in writing), and the award rendered by the arbitrators shall be final and binding on the parties thereto, but such award shall be subject to and may be overruled by any order of the MDTE. The arbitration shall be conducted by a panel of three (3) arbitrators. Judgment on such award may be entered in any court having jurisdiction thereof. Arbitration proceedings shall be held in Boston, Massachusetts unless the Parties mutually agree on another location.

5.2 No waiver by a Party of any one or more defaults by the other Parties in the performance of this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or different character.

5.3 No Party shall Transfer its interest in this Agreement without first obtaining the prior written consent of all other Parties.

5.4 At all times during the term of this Agreement, each Party shall comply with all applicable Laws of all governmental authorities having jurisdiction over the Work.

5.5 This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, representations and understandings, written or oral, pertaining thereto, except that, in any inconsistency between this Agreement and the Commonwealth's form "Terms and Conditions" (previously signed) or the Standard Commonwealth Contract form; the provisions of the Commonwealth form shall govern. Any modifications, amendments, or changes to this Agreement shall be binding upon the parties only if agreed upon in writing by all the Parties hereto.

5.6 The descriptive headings of all Articles and Sections of this Agreement are formulated and used for convenience only and shall not be deemed to affect the meaning or construction of any such Article or Section.

5.7 Any provision of this Agreement that is illegal, prohibited or unenforceable under Massachusetts or federal law shall be specifically treated as null and void without effect on the remainder of the Agreement except as may be necessary under the remaining provisions. MCI-B's obligations under this Agreement are also conditional on the availability of funding appropriated by the Commonwealth.

5.8 Every notice, request, or other statement to be made or delivered to a Party pursuant to this Agreement shall be directed to such Party's representative at the address or facsimile number given below or to such other address or facsimile number as the party may designate from time to time. The Parties' addresses and facsimile numbers are:

(a) If to MCI-B:

Paul Murphy, Assistant Deputy Commissioner
Bridgewater Complex—The Matt Talbot House
15 Administration Road, P.O. Box 628
Bridgewater, MA 02324

Phone: 617-727-0417, Ext. 2000
Fax: 617-727-1719

(b) If to Bay State:

Bay State Gas Company
300 Friberg Parkway
Westborough, MA 01581

Attention: William D. MacGillivray
Phone: 508-836-7355
Fax: 508-836-7039

For purposes of this Agreement, the date on which any notice, request, statement, payment or other communication (including communication by Facsimile) shall be deemed to have been given shall be the date on which it is received by the recipient.

5.9 It is specifically agreed by the Parties hereto that in no event shall any rights to termination or damages conferred by law or conferred by this Agreement be presumed to be adequate remedies for any default hereunder. Each party does

therefore fully reserve its rights, after exhaustion of dispute resolution procedures pursuant to Section 5.1 above, to seek through judicial proceedings specific performance of any term of this Agreement.

5.10 Both parties represent to each other that their organization has authority to enter into this Agreement and that all of the terms and conditions will be binding and lawful obligations of the party making the representation.

5.11 This Agreement shall become effective upon execution and delivery hereof by each of the Parties and shall continue in force and effect until all obligations and duties of the Parties provided for under this Agreement have been fulfilled, unless sooner terminated as set forth herein.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the Effective Date by a duly authorized representative having authority to bind such Party to the obligations contained herein.

MCI-B

By: Peter V. Macchi

Its: PETER V. Macchi
Director Of Administrative Services

Bay State Gas Company

By: John R. Snow
Its: Vice President

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COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO
RECORD REQUESTS FROM THE ATTORNEY GENERAL
D.T.E. 05-27

Date: July 13, 2005

Responsible: Lawrence Kaufmann Consultant

RR-AG-28: Provide the statistics used in preparing DTE 04-10 - and provide those statistics from Boston Gas DTE 3-40.

Response: Please see Attachment RR-AG-28 and RR-AG-28 (b) respectively.

Bay State Gas
DTE 05-27
Attachment RR-AG-28

GAUSS Data Export Facility

Begin export...

Export completed

Number of cases in GAUSS data set: 453.000

Number of cases written to foreign file : 453.000

Number of variables written to foreign file : 31.000

Date: 7/12/05 ***** SUR ESTIMATION RESULTS ***** Time: 10:09:15

OUTPUT FILE:C:\work\Baystate\results\dr_10

DATA FILE:C:\work\Baystate\bench03dr10.xls

DEFINITIONS OF OUTPUT VARIABLES:

Y1 is number of customers.

Y2 is Total deliveries.

DEFINITIONS OF BUSINESS CONDITION VARIABLES:

Z1 is % of non-iron and steel in Dx miles

Z2 is Number of Electric Customers

Z3 is northeast dummy variable

Z4 is Miles of Distribution Main

Z5 is Pbr dummy variable for Bay State Gas

Model includes time trend.

Time period used: 1994 through 2003

k = nadd10

GAUSS Data Import Facility

Begin import...

Import completed

Number of rows in input file: 473

Number of cases written to GAUSS data set: 473

Number of variables written to GAUSS data set: 60

1
453

=====

SEEMINGLY UNRELATED REGRESSION WITH HETEROSKEDASTICITY 7/12/2005 10:09 am

=====

Data Set: C:\work\Baystate\Temp_3.dat

DIVISOR USING N IN EFFECT
RESTRICTIONS IN EFFECT

ITER. # = 0	LOG OF DETERMINANT OF SIGMA =	5.53950671
ITER. # = 1	LOG OF DETERMINANT OF SIGMA =	5.47288022
ITER. # = 2	LOG OF DETERMINANT OF SIGMA =	5.47058063
ITER. # = 3	LOG OF DETERMINANT OF SIGMA =	5.47037499
ITER. # = 4	LOG OF DETERMINANT OF SIGMA =	5.47035359
ITER. # = 5	LOG OF DETERMINANT OF SIGMA =	5.47035134
ITER. # = 6	LOG OF DETERMINANT OF SIGMA =	5.47035110
ITER. # = 7	LOG OF DETERMINANT OF SIGMA =	5.47035107
ITER. # = 8	LOG OF DETERMINANT OF SIGMA =	5.47035107
ITER. # = 9	LOG OF DETERMINANT OF SIGMA =	5.47035107

Equation: 1

Dependent variable: C

Total cases:	453	Valid cases:	453
Total SS:	388.703	Degrees of freedom:	----
R-squared:	0.968	Rbar-squared:	0.967
Residual SS:	12.605	Std error of est:	2.531
Durbin-Watson:	0.278		

Variable	Estimated Coefficient	Standard Error	t-ratio	Prob > t
CONST	8.14953209	0.01616298	504.210	0.0000
WL	0.20487854	0.00285442	71.776	0.0000
WK	0.63893526	0.00299430	213.384	0.0000
Y1	0.57094553	0.04156780	13.735	0.0000
Y2	0.20260515	0.03509580	5.773	0.0000
WLWL	0.04366583	0.03709472	1.177	0.2398
WLWK	-0.13820346	0.02508251	-5.510	0.0000
WKWK	0.21037454	0.02214792	9.499	0.0000
Y1Y1	-0.42541905	0.07017894	-6.062	0.0000
Y2Y2	-0.52920375	0.09867019	-5.363	0.0000
WLY1	-0.01810061	0.00726937	-2.490	0.0131
WLY2	-0.01373724	0.00723523	-1.899	0.0583
WKY1	0.01395969	0.00514824	2.712	0.0070
WKY2	0.01207320	0.00600890	2.009	0.0451
Y1Y2	0.44886812	0.08116648	5.530	0.0000
Z1	-0.02152289	0.04958488	-0.434	0.6645
Z2	-0.00461888	0.00107337	-4.303	0.0000
Z3	0.08404966	0.00786765	10.683	0.0000
Z4	0.10211388	0.03681025	2.774	0.0058
Z5	-0.00012681	0.00089772	-0.141	0.8877
TREND	-0.01963210	0.00214586	-9.149	0.0000
K	-0.01707746	0.01112972	-1.534	0.1256

Equation: 2

Dependent variable: SL

Total cases:	453	Valid cases:	453
Total SS:	2.719	Degrees of freedom:	----
R-squared:	0.093	Rbar-squared:	0.105
Residual SS:	2.465	Std error of est:	2.524
Durbin-Watson:	0.367		

Estimated	Standard	Prob
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Variable	Coefficient	Error	t-ratio	> t
CONST	0.20487854	0.00285442	71.776	0.0000
WL	0.04366583	0.03709472	1.177	0.2397
WK	-0.13820346	0.02508251	-5.510	0.0000
Y1	-0.01810061	0.00726937	-2.490	0.0131
Y2	-0.01373724	0.00723523	-1.899	0.0582

Equation: 3

Dependent variable: SK

Total cases: 453 Valid cases: 453
 Total SS: 3.369 Degrees of freedom: ----
 R-squared: 0.188 Rbar-squared: 0.199
 Residual SS: 2.736 Std error of est: 3.378
 Durbin-Watson: 0.279

Variable	Estimated Coefficient	Standard Error	t-ratio	Prob > t
CONST	0.63893526	0.00299430	213.384	0.0000
WL	-0.13820346	0.02508251	-5.510	0.0000
WK	0.21037454	0.02214792	9.499	0.0000
Y1	0.01395969	0.00514824	2.712	0.0069
Y2	0.01207320	0.00600890	2.009	0.0451

Equation: 4

Dependent variable: SM

Valid cases: 453

Degrees of freedom: ----

Variable	Estimated Coefficient	Standard Error	t-ratio	Prob > t
CONST	0.15618621	0.00269397	57.976	0.0000
WL	0.09453764	0.02345970	4.030	0.0001
WK	-0.07217108	0.01743741	-4.139	0.0001
Y1	0.00414093	0.00651055	0.636	0.5255

Y2 0.00166404 0.00685021 0.243 0.8083

MEASURES OF GOODNESS-OF-FIT

AN UNCENTERED SYSTEM R-SQUARE 0.969

A CENTERED SYSTEM R-SQUARE 0.972

The results from the test of the null hypothesis that all slope coefficients in all equations are simultaneously equal to zero.

Test statistic	Prob > t

1622.984	0.0000

VALIDATION OF REGULARITY CONDITIONS

Monotonicity of the Estimated Cost Function

The number of observations for which each of the following predicted cost share is nonpositive is listed below

Labor	Capital	Materials
0	0	0
(0.00 %)	(0.00 %)	(0.00 %)

Concavity of the Estimated Cost Function

The number of the observations for which the condition that the matrix of second order partial derivatives of the cost function with respect to input wages is negative semi-definite holds:

421 (92.94 %)

Quasi-Concavity of the Estimated Cost Function

The number of observations for which the condition that the cost function is strictly quasi-concave in input prices holds:

421 (92.94 %)

Second Order Condition for Cost Minimization

The number of the observations for which the condition that the bordered Hessian is negative definite holds:

421 (92.94 %)

OUT-OF-SAMPLE PREDICTION OF TOTAL COST LEVEL PERFORMANCE LAST 5 YEARS

Actual	Predicted	Difference	t_ratio	p_value	Utility
8.231	8.546	-0.315	-10.950	0.000	15.000
7.375	7.685	-0.310	-10.784	0.000	30.000
6.765	7.067	-0.301	-10.480	0.000	53.000
7.566	7.824	-0.259	-8.993	0.000	44.000
7.810	8.053	-0.242	-8.419	0.000	38.000
8.844	9.023	-0.179	-6.218	0.000	23.000
8.538	8.691	-0.153	-5.330	0.000	12.000
7.639	7.762	-0.123	-4.265	0.000	49.000
8.063	8.178	-0.115	-3.983	0.000	4.000
7.255	7.353	-0.097	-3.387	0.001	37.000
5.993	6.089	-0.096	-3.332	0.001	7.000
6.568	6.654	-0.086	-3.007	0.003	45.000
6.607	6.689	-0.083	-2.872	0.004	26.000
5.473	5.546	-0.073	-2.534	0.012	54.000
7.893	7.959	-0.065	-2.277	0.023	46.000
8.013	8.076	-0.063	-2.202	0.028	25.000
7.441	7.484	-0.042	-1.469	0.143	17.000
7.206	7.244	-0.038	-1.336	0.182	9.000
8.408	8.440	-0.032	-1.120	0.263	41.000
6.272	6.302	-0.030	-1.052	0.293	57.000
8.987	9.017	-0.030	-1.029	0.304	34.000
9.739	9.757	-0.018	-0.636	0.525	40.000
8.698	8.712	-0.014	-0.488	0.626	13.000
6.686	6.700	-0.014	-0.484	0.628	22.000
8.750	8.758	-0.008	-0.267	0.790	5.000
7.601	7.591	0.011	0.370	0.712	1.000
6.939	6.927	0.011	0.397	0.692	31.000

7.555	7.538	0.017	0.576	0.565	Bay State
7.981	7.904	0.078	2.699	0.007	24.000
8.639	8.561	0.079	2.742	0.006	2.000
7.083	6.988	0.095	3.318	0.001	6.000
7.970	7.866	0.104	3.602	0.000	43.000
6.962	6.827	0.134	4.665	0.000	33.000
7.940	7.803	0.136	4.735	0.000	28.000
7.163	6.999	0.165	5.732	0.000	10.000
7.085	6.917	0.167	5.825	0.000	11.000
8.710	8.537	0.173	6.002	0.000	16.000
9.741	9.547	0.195	6.765	0.000	27.000
8.237	8.032	0.205	7.140	0.000	21.000
7.497	7.280	0.216	7.524	0.000	36.000
7.936	7.697	0.238	8.291	0.000	3.000
8.565	8.270	0.295	9.189	0.000	29.000
8.554	8.173	0.381	13.248	0.000	42.000

Date: 5/29/03 ***** STANDARD SUR ESTIMATION RESULTS ***** Time: 16:50:51

OUTPUT FILE:C:\work\Bostongas\heteroskedasticity\Sur_hse.hl2

DATA FILE:C:\work\Bostongas\heteroskedasticity\bench17c.xls

DEFINITIONS OF OUTPUT VARIABLES:

Y1 is Number of Retail Customers.

Y2 is Throughput.

DEFINITIONS OF BUSINESS CONDITION VARIABLES:

Z1 is Percent of Non-iron Miles in Distribution.

Z2 is Number of Electric Customers.

Z3 is Earthquake Dummy Variable

Z4 is Dummy for Northeast Region.

Z5 is Dummy for Years with PBR for Boston Gas.

Trend is a time trend.

Time period used: 1993 through 2000

GAUSS Data Import Facility

Begin import...

Import completed

Number of rows in input file: 1510

Number of cases written to GAUSS data set: 1509

Number of missing elements: 89820

Number of variables written to GAUSS data set: 90

1

336

=====

LINEAR SEEMINGLY UNRELATED REGRESSION 5/29/2003 4:50 pm

=====

Data Set: C:\work\Bostongas\Temp_3.dat

DIVISOR USING N IN EFFECT

RESTRICTIONS IN EFFECT

ITER. # = 0 LOG OF DETERMINANT OF SIGMA = -15.38202089

ITER. # = 1 LOG OF DETERMINANT OF SIGMA = -15.42780834

Equation: 1

Dependent variable: C

Total cases: 336 Valid cases:
Total SS: 302.185 Degrees of freedom:
R-squared: 0.976 Rbar-squared: 0.975
Residual SS: 7.217 Std error of est: 0.147
Durbin-Watson: 0.376

Variable	Estimated Coefficient	Standard Error	t-ratio	Prob > t
CONST	8.02918323	0.02987792	268.733	0.0000
WL	0.20185704	0.00335598	60.148	0.0000
WK	0.64759377	0.00458616	141.206	0.0000
Y1	0.65809327	0.03161059	20.819	0.0000
Y2	0.21023735	0.03327131	6.319	0.0000
WLWL	-0.10132346	0.04635760	-2.186	0.0296
WLWK	0.01039158	0.02523248	0.412	0.6807
WKWK	0.08987463	0.02655540	3.384	0.0008
Y1Y1	-0.43891367	0.06846824	-6.410	0.0000
Y2Y2	-0.51216696	0.07503464	-6.826	0.0000
WLY1	0.01390679	0.00877835	1.584	0.1141
WLY2	-0.02300894	0.00884040	-2.603	0.0097
WKY1	-0.02780150	0.01064813	-2.611	0.0094
WKY2	0.03848859	0.01086500	3.542	0.0005
Y1Y2	0.45247080	0.07026459	6.440	0.0000
Z1	-0.21015234	0.04965488	-4.232	0.0000
Z2	-0.01015216	0.00135325	-7.502	0.0000
Z3	0.01558425	0.00415480	3.751	0.0002
Z4	0.05916300	0.00649597	9.108	0.0000
Z5	-0.00273374	0.00069754	-3.919	0.0001
TREND	-0.00480901	0.00330040	-1.457	0.1461

Equation: 2
Dependent variable: SL

Total cases: 336 Valid cases: 336
Total SS: 1.222 Degrees of freedom: ----
R-squared: 0.080 Rbar-squared: 0.096
Residual SS: 1.124 Std error of est: 0.058
Durbin-Watson: 0.521

Variable	Estimated Coefficient	Standard Error	t-ratio	Prob > t
CONST	0.20185704	0.00335598	60.148	0.0000
WL	-0.10132346	0.04635761	-2.186	0.0295
WK	0.01039158	0.02523248	0.412	0.6807
Y1	0.01390679	0.00877835	1.584	0.1141
Y2	-0.02300894	0.00884040	-2.603	0.0097

Equation: 3
Dependent variable: SK

Total cases: 336 Valid cases: 336
Total SS: 1.973 Degrees of freedom: ----
R-squared: 0.064 Rbar-squared: 0.080
Residual SS: 1.847 Std error of est: 0.074
Durbin-Watson: 0.442

Variable	Estimated Coefficient	Standard Error	t-ratio	Prob > t
CONST	0.64759377	0.00458616	141.206	0.0000
WL	0.01039158	0.02523248	0.412	0.6807
WK	0.08987463	0.02655540	3.384	0.0008
Y1	-0.02780150	0.01064813	-2.611	0.0094
Y2	0.03848859	0.01086500	3.542	0.0005

Bay State Gas Company
D.T.E. 05-27
Attachment RR-AG-28(b)
Page 3 of 4

Equation: 4
Dependent variable: SM

Valid cases: 336
Degrees of freedom: ----

Variable	Estimated Coefficient	Standard Error	t-ratio	Prob > t
CONST	0.15054918	0.00566299	26.585	0.0000
WL	0.09093189	0.03725548	2.441	0.0155
WK	-0.10026621	0.02968234	-3.378	0.0009
Y1	0.01389470	0.01353214	1.027	0.3058
Y2	-0.01547965	0.01380749	-1.121	0.2636

MEASURES OF GOODNESS-OF-FIT

AN UNCENTERED SYSTEM R-SQUARE 0.978
A CENTERED SYSTEM R-SQUARE 0.978

The results from the test of the null hypothesis that all slope coefficients in all equations are simultaneously equal to zero.

Test statistic	Prob > t
1279.837	0.0000

VALIDATION OF REGULARITY CONDITIONS

Monotonicity of the Estimated Cost Function

The number of observations for which each of the following predicted cost share is nonpositive is listed below

Labor	Capital	Materials
0	0	0
(0.00 %)	(0.00 %)	(0.00 %)

Concavity of the Estimated Cost Function

The number of the observations for which the condition that the matrix of second order partial derivatives of the cost function with respect to input wages is negative semi-definite holds:

336 (100.00 %)

Bay State Gas Company
D.T.E. 05-27
Attachment RR-AG-28(b)
Page 4 of 4

Quasi-Concavity of the Estimated Cost Function

The number of observations for which the condition that the cost function is strictly quasi-concave in input prices holds:

336 (100.00 %)

Second Order Condition for Cost Minimization

The number of the observations for which the condition that the bordered Hessian is negative definite holds:

336 (100.00 %)

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO
RECORD REQUESTS FROM THE ATTORNEY GENERAL
D.T.E. 05-27

Date: July 13, 2005

Responsible: John Skirtich, Consultant (Revenue Requirements)

RR-AG-29: Reconcile the amounts shown on the D.T.E. 2004 Annual Return, page 47, with the amounts on MOC 1-3 for all sales promotion expenses.

Response: Please see Attachment RR-AG-29.

**Bay State Gas Company
General Rate Case
D.T.E. 05-27**

Ln. Account No. Number	Description	<u>Annual Return to DTE</u>		<u>Amount</u>	<u>Billed to Northern/ Credit to Account 923</u>	<u>Net</u>
		<u>Amount</u>	<u>Reference</u>			
1 415-00	Furnance Inst./Below the line	2,354,197	Pg. 51, Ln. 50	40,573		40,573
2 911-00	Supervision	66,710	Pg. 47, Ln 11			
3 912-00	New Bus.- Misc	9,305		9,305	1,768	7,537
4 912-01	New Bus.- Mileage	19,563		12,500	2,375	10,125
5 912-05	New Bus.- Demo & Sell. Salaries	80,307		235	45	190
6 912-08	New Bus.- Misc. Promotion	33,174		33,174	6,303	26,871
7 912-14	New Bus.- Incentive Program	5,955				
8 912-16	New Bus.- Assisting Sales	3,382				
9 912-72	New Bus. - Part HH-No Chg	378				
10 912-95	New Bus - Vehicle Clearing	7,480				
11 912-96	New Bus. - Store Room Expense	98				
12	Total 912	<u>159,642</u>	Pg. 47, Ln 12			
13 913-00	Advertising	200,871		200,871	16,070	184,801 2/
14 913-XX	Advertising	<u>(2,500)</u>				
15	Total Advertising	<u>198,371</u>	Pg. 47, Ln 13			
16 921-00	Office Supplies	4,283,153	Pg. 47, Ln 19	1,935	368	1,567
17 923-00	Outside Services	26,291,682	Pg. 47, Ln 21	<u>11,674</u>	<u>2,218</u>	<u>9,456</u>
18	Total			310,267 1/	29,147	240,547 3/

Notes:

- 1/ MOC-1-1
- 2/ MOC-3-10
- 3/ MOC-1-3

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO
RECORD REQUESTS FROM THE ATTORNEY GENERAL
D.T.E. 05-27

Date: July 13, 2005

Responsible: John Skirtich, Consultant (Revenue Requirements)

RR-AG-31: Identify all sales promotional programs in test year. If already provided in another response, so indicate.

Response: Promotional expenses in the test year are presented in AG-15-12, which is the same as MOC-01-01 except that AG-15-12 requested the information back to 2000, while MOC-01-01 requested the information back to 2002.